

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

JETBLUE AIRWAYS CORPORATION and
SPIRIT AIRLINES, INC.,

Defendants.

Case No. 1:23-cv-10511-WGY

GABRIEL GARAVANIAN, *et al.*,

Plaintiffs,

v.

JETBLUE AIRWAYS CORPORATION and,
SPIRIT AIRLINES, INC.,

Defendants.

Case No. 1:23-cv-10678-WGY

**NON-PARTY ALLEGIANT AIR LLC’S UNOPPOSED MOTION TO SEAL
CONFIDENTIAL EXHIBITS AND TESTIMONY FOR TRIAL AND SUPPORTING
MEMORANDUM**

Pursuant to Local Rule 7.2, the Stipulated Joint Protective Order in the above-caption actions, and the Joint Proposed Confidentiality Protocol filed in the above-captioned actions on August 21, 2023 (Dkt. 154¹ and 183²) (together the “Confidentiality Protocol”), Allegiant Air LLC (“Allegiant”) respectfully requests that certain documents and testimony be sealed from the public

¹ Case No. 1:23-cv-10511-WGY

² Case No. 1:23-cv-10678-WGY

record at trial and protected as confidential. The Parties in the above-captioned actions³ have informed Allegiant that they may introduce these documents and the designated testimony at trial, and Allegiant seeks to seal through redaction the confidential information contained in these materials to the extent that any of them are offered and admitted into evidence. Allegiant further requests that the sealed materials remain impounded until further order of the Court.

Pursuant to Paragraph 5 of the Confidentiality Protocol, if (i) the Parties and a non-party agree that confidential material in an exhibit is irrelevant to the case, the irrelevant and confidential information in such exhibit may be redacted and only the redacted version of such exhibit will be submitted to the Court, used during examinations, and be part of the record. With respect to (ii) non-party information that the Parties dispute should be confidential at trial, non-parties may file a motion to seal on or before September 29. However, Paragraph 5 is silent on (iii) documents and testimony for which there is no disagreement concerning confidential portions to be redacted from the public but for which the confidential portion at issue *is* relevant to the case.

This motion relates to documents and testimony in category (iii) and is submitted to ensure confidentiality of documents and testimony which Allegiant understands at least one of the Parties believes to be relevant to the case and there is no disagreement concerning confidential portions to be redacted from the public.

Pursuant to Local Rule 7.1, Allegiant has met and conferred with Plaintiffs and Defendants, who assented to this motion in writing.

In support of this motion, Allegiant states:

³ We understand Plaintiffs in Case No. 1:23-cv-10678-WGY have filed a Motion to Consolidate Trial on September 28, 2023 that is pending before the Court. Plaintiffs in Case No. 1:23-cv-10678-WGY emailed Allegiant on September 28, 2023 and stated that Plaintiffs will not oppose Allegiant's motion to seal based on a commitment to confer in good faith at trial should their Motion to Consolidate Trial be granted.

1. Allegiant was provided the Confidentiality Protocol and an initial list of documents on Plaintiffs' exhibit list by Plaintiffs in Case No. 1:23-cv-10511-WGY on August 22, 2023. Plaintiffs confirmed their exhibit list as final on September 11, 2023. Plaintiffs provided the testimony included in their deposition designations on September 11, 2023. Allegiant provided confidentiality designations for the exhibits and designated deposition testimony to Plaintiffs on September 18, 2023. Allegiant met and conferred with Plaintiffs regarding these designations between September 25, 2023 and September 29, 2023 and came to agreement on the redactions listed below.
2. Allegiant was provided the Confidentiality Protocol and initial list of documents on the Defendants' exhibit list by Defendants on August 23, 2023. Defendants confirmed their exhibit list as final on September 13, 2023. Defendants provided the testimony included in their deposition designations on September 13, 2023. Allegiant provided confidentiality designations for the exhibits and designated deposition testimony to Defendants on September 18, 2023. Allegiant met and conferred with Defendants regarding these designations between September 25, 2023 and September 29, 2023 and came to agreement on the redactions listed below.
3. The documents and testimony to be sealed, with reasoning for sealing, is described below.

Documents⁴

Begin Bates	End Bates	Redact	Reasoning
ALLEGiant_00009083	ALLEGiant_00009106	All except for bates ending -9090, 9092, 9106, and 9089.	Competitively sensitive information with respect to Allegiant's network strategy (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJ_00000883	ALLEGiant_DOJ_00000899	All except for bates ending -0885, 0886, 0888, 0890, 0891, and 0896-0899	Non-relevant competitively sensitive information with respect to Allegiant's business (Para. 5, Confidentiality Protocol)
ALLEGiant_DOJ_00000994	ALLEGiant_DOJ_00001001	Bates ending -0996, 0998	Personally identifying information (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJ_00001007	ALLEGiant_DOJ_00001018	Bates ending -1009, 1012, 1013, 1014, 1016 and 1017	Competitively sensitive information with respect to Allegiant's valuations (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJ_00001030	ALLEGiant_DOJ_00001030	Withhold in Full	Competitively sensitive information with respect to Allegiant's valuations and

⁴ Allegiant understands that Plaintiffs and Defendants are providing redacted versions of these documents to the Court.

Begin Bates	End Bates	Redact	Reasoning
			forward-looking strategy (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJ_00001139	ALLEGiant_DOJ_00001142	Bates ending -1141 and 1142	Personally identifying information and competitively sensitive information with respect to Allegiant's valuations (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJLIT_00003235	ALLEGiant_DOJLIT_00003243	Bates ending -3235, 3238, and 3239	Competitively sensitive information with respect to Allegiant's valuations and forward-looking strategy (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJLIT_00008584	ALLEGiant_DOJLIT_00008592	Bates ending -8685, 8686, and 8592	Competitively sensitive information with respect to Allegiant's valuations (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJLIT_00008767	ALLEGiant_DOJLIT_00008774	Bates ending -8768 and 8769	Competitively sensitive information with respect to Allegiant's valuations and

Begin Bates	End Bates	Redact	Reasoning
			forward-looking strategy (Para. 2, Confidentiality Protocol)
ALLEGiant_DOJLIT_00003465	ALLEGiant_DOJLIT_00003571	All except for bates ending -3472, 3519, 3520, 3521, 3523, and 3551	Competitively sensitive information with respect to Allegiant's valuations and forward-looking strategy (Para. 2, Confidentiality Protocol)
ALLEGiant_00009055	ALLEGiant_00009072	All except for bates ending -9062 and 9063	Non-relevant competitively sensitive information with respect to Allegiant's business (Para. 5, Confidentiality Protocol)
"Unified Ticket Data" exhibit on Plaintiffs' trial exhibit list	N/A	N/A	Competitively sensitive information with respect to Allegiant's business (Para. 5, Confidentiality Protocol)

Testimony

All references are to the transcript of the Recorded Videoconference Deposition of Drew Wells, taken via Zoom on June 22, 2023.

Sealed Testimony	Reasoning
19:15-16, 19:23-25, 20:10, 21:17-19, 21:22-24, 22:1-2, 22:21, 23:8-11, 23:15-17, 23:22-24:11, 24:17-18, 26:17-27:19, 28:15-19	Competitively sensitive information with respect to Allegiant's network strategy (Para. 2, Confidentiality Protocol)
94:19-20, 94:23-95:1, 95:4-13, 97:5-6, 97:22-98:2, 101:4-101:8, 101:12-13, 101:24-102:3	Competitively sensitive information with respect to Allegiant's forward-looking strategy (Para. 2, Confidentiality Protocol)
113:6-8, 113:20-21	Competitively sensitive information with respect to Allegiant's network strategy (Para. 2, Confidentiality Protocol)
120:22-23, 121:1-6, 126:11, 126:14-16, 130:22-131:6, 140:18-141:7, 141:21-143:11	Competitively sensitive information with respect to Allegiant's valuations (Para. 2, Confidentiality Protocol)
146:12-147:9, 147:12-25, 204:13, 204:18, 204:24	Competitively sensitive information with respect to Allegiant's forward-looking strategy (Para. 2, Confidentiality Protocol)
228:13-18, 231:13-22, 233:12, 249:24, 250:1-2, 245:18-247:19, 247:21-22 -250:2, 248:18-23, 248:25-249:13, 249:15-24	Competitively sensitive information with respect to Allegiant's valuations (Para. 2, Confidentiality Protocol)
271:8-9, 271:11-12	Competitively sensitive information with respect to Allegiant's network strategy (Para. 2, Confidentiality Protocol)

WHEREFORE, Allegiant respectfully requests that the Court GRANT this unopposed motion and order that the listed exhibits and testimony be sealed at trial.

Dated: September 29, 2023

/s/ Carla Gilbertson

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LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I hereby certify that counsel for the parties have conferred on the subject of this Motion. Counsel for Defendants and Plaintiffs in the above-captions cases have assented to Non-party Allegiant Air LLC's unopposed motion to seal confidential exhibits and testimony for trial and supporting memorandum.

/s/ Carla Gilbertson

Carla N. Gilbertson

CERTIFICATE OF SERVICE

I, Carla Gilbertson, hereby certify that a true copy of this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 27, 2023.

/s/ Carla Gilbertson

Carla N. Gilbertson